

### **304.49-040 Financial security requirements.**

- (1) No captive insurer shall be issued a certificate of authority unless it shall possess and thereafter maintain unimpaired paid-in capital and surplus of:
  - (a) In the case of a pure captive insurer, not less than two hundred fifty thousand dollars (\$250,000);
  - (b) In the case of an consortium captive insurer, not less than seven hundred fifty thousand dollars (\$750,000);
  - (c) In the case of an industrial insured captive insurer, not less than five hundred thousand dollars (\$500,000);
  - (d) In the case of a sponsored captive insurer, not less than one million dollars (\$1,000,000);
  - (e) In the case of an agency captive insurer, not less than five hundred thousand dollars (\$500,000); and
  - (f) In the case of a special purpose captive insurer, not less than two hundred fifty thousand dollars (\$250,000), or another amount determined by the executive director.
- (2) Notwithstanding the requirements of subsection (1) of this section, no captive insurer organized as a reciprocal insurer under KRS 304.49-010 to 304.49-230 shall be issued a certificate of authority unless it shall possess and thereafter maintain free surplus of one million dollars (\$1,000,000).
- (3) The executive director may prescribe additional capital and surplus based upon the type, volume, and nature of insurance business transacted.
- (4) Capital and surplus may be in the form of cash or an irrevocable letter of credit issued by a bank approved by the executive director and chartered by the Commonwealth of Kentucky or a member bank of the Federal Reserve System, or other assets as may be approved by the executive director.
- (5) In the case of a branch captive insurer, as security for the payment of liabilities attributable to the branch operations, the executive director shall require that a separate trust fund, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and United States ceding insurers under insurance policies issued or reinsurance contracts issued or assumed, by the branch captive insurer through its branch operations. The amount of this security may be no less than the capital and surplus required in this section and the reserves on the insurance policies or the reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses, and unearned premiums with regard to business written through the branch operations; provided, however, the executive director may permit a branch captive insurer that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account required by this section by the same amount so long as the security remains posted with the reinsurer. If the form of security selected is a letter of credit, the letter of credit must be established by, or issued or confirmed by, a bank chartered in Kentucky or a member bank of the Federal Reserve System.

**Effective:** April 25, 2006

**History:** Amended 2006 Ky. Acts ch. 252, Pt. XXXIV, sec. 7, effective April 25, 2006.  
-- Created 2000 Ky. Acts ch. 434, sec. 4, effective July 14, 2000.

**Legislative Research Commission Note** (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.